

# **CITY OF DELTA**

## **Confluence Drive Project**

### **Relocation Assistance Policy**

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#### **PREAMBLE**

The City of Delta (City) has determined that the following policies will govern City activities when relocating individuals, families, businesses, non-profit organizations and personal property displaced by the "Alternate Truck Route", otherwise known as the Confluence Drive Project (Project).

If the Project requires occupants to move and the move involves residential relocation assistance payments or business move assistance payments, the City has adopted the special relocation assistance policy defined herein (City Policy) to establish the methods for determining eligible and reimbursable move payments, and identify the advisory assistance to be provided by the City.

The sole and exclusive purpose of the City Policy set forth herein is to provide reasonable incentives for prompt, comprehensive settlement of all valuation and/or compensation issues pertaining to each respective property interest (including tenancies) being sought for eminent domain acquisition by the City as part of the Project.

Unless such a settlement approved by the Delta City Manager is actually concluded for the acquisition of certain real property interests, no part of this Policy shall be further applicable as to any particular property interest, and all unresolved real property valuation and/or compensation issues as to the affected property interest shall be limited and determined strictly in accord with provisions of C.R.S. 38-1-101 *et seq.* No rights of administrative or judicial review of the manner or scope of application of this Policy are intended to be created or allowed by the Delta City Council under, or by virtue of, its promulgation or adoption of this Policy.

#### **THE RELOCATION PROCESS**

City Policy provides relocation payments for persons displaced from their residences, businesses and non-profit organizations. These payments include moving expenses and certain supplemental expenses for increased costs at a replacement location.

The City is committed to the successful relocation of those to be displaced and is committed to doing so in a uniform manner that assists the displaced persons as well as ensures that the City's funds are spent appropriately.

The City's Policy is defined as follows.

#### **1. NOTICES**

The City recognizes the need of displaced persons to have information about the relocation process. This information will be provided through personal contact and a series of notices, the purposes of which are minimizing disruption and maximizing the chances of a successful relocation. The following are the primary notices to be provided under City Policy:

1. Notice of Relocation Eligibility – This notice will be provided to those particular persons/businesses that will be displaced. The notice informs the occupant that he or she will be displaced as a result of the Project and, therefore, will be eligible for relocation benefits, as applicable. This may be combined with the 90-day Notice described below.
2. 90-Day Notice –The City will provide occupants with a written notice at least 90 days in advance of the earliest date he or she will be required to move.
3. 30-Day Final Vacation Notice –The City will provide a 30-day notice to the occupant no less than 30 days prior to the specific day that the occupant will be required to move.

## **2. ADVISORY SERVICES**

Relocation advisory services will also be provided to assist displaced persons (Displaced persons as referred to hereinafter shall include displaced persons, farms, businesses and non-profit organizations). These services will provide displaced persons with information, counseling and advice as necessary. These services may be provided by the City, or by outside consultants acting on behalf of the City.

Typical basic services, which shall be made available to all displaced persons, include:

- Explanation of relocation services and appropriate payments;
- Explanation and discussion of eligibility requirements for each relevant type of relocation payment, and, at an appropriate time, determination of eligibility for each displaced person.
- Assistance with claims for eligible relocation reimbursements.
- *Note: Aliens not lawfully present in the United States are not eligible to receive relocation payments or advisory services.*

## **3. RELOCATION ASSISTANCE PAYMENTS**

Relocation assistance payments will be available to persons displaced due to the Project. There are two main categories of payments: residential and non-residential properties. Within each category there are specific payments which address expenses incurred as a result of a required move.

### **A. RESIDENTIAL DISPLACEMENTS**

1. Moving and related expenses –The City has prepared a fixed schedule for moving payments, based upon the total number of rooms in the dwelling, with an allowance for “rooms in storage” to accommodate additional personal property located outside of the dwelling or within a garage. The room count moving schedule is identified in Appendix A.

In unique situations, the City may allow payment for moving certain specialty items through bids from professionals competent to move said items. In certain instances, with the City's prior approval, a single bid may be appropriate to determine the costs of this type of move. Upon approval of the move costs by the City, the displaced person may elect to move the item, or contract directly to move said item. In no instance shall the amount reimbursed to the displaced occupant exceed the approved amount.

Upon the City's review and approval, an allowance for storage of personal property may be reimbursed to the displaced occupant.

## **2. Replacement housing payments – 180 day homeowner occupants**

**(a) Eligibility.** A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

- (1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and
- (2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following date:
  - (i) The date the displaced person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court.

*Note: The City may elect extend this period to purchase a replacement dwelling for good cause.*

- (3) All relocation payments shall be subject to the City's formal review and approval.

**(b) Amount of payment.** The replacement housing payment for an eligible 180-day homeowner-occupant shall not exceed **\$20,000.00**, in addition to the purchase price paid by the City for the acquired dwelling, to purchase a replacement dwelling. This payment shall equal the lesser of **\$20,000.00**, or the actual difference in the price of the replacement dwelling and the acquired dwelling. This payment shall equal a minimum of **\$5,000**, regardless of the costs of the replacement. This payment shall be made at closing of the replacement dwelling.

**(c) Incidental expenses.** The City shall reimburse up to **\$5,000.00** of the incidental costs to acquire a replacement dwelling, pursuant to purchase as described in Part 3 (A)(2)(a)(2) above. This payment shall be made at closing of the replacement dwelling. The incidental expenses to be paid under this section are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

- (1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.
- (2) Lender, FHA, or VA application and appraisal fees.
- (3) Loan origination or assumption fees that do not represent prepaid interest.

- (4) Professional home inspection, certification of structural soundness, and termite inspection.
- (5) Credit report.
- (6) Owner's and mortgagee's evidence of title, *e.g.*, title insurance, not to exceed the costs for a comparable replacement dwelling.
- (7) Escrow agent's fee.
- (8) State revenue or documentary stamps, sales or transfer taxes
- (9) Such other costs as the City determine to be incidental to the purchase.

Payment under this section shall equal the lesser \$5,000 or the eligible costs actually incurred, and shall be subject to review and prior approval by the City.

(d) 180 Day Owner Occupants who elect to rent versus purchase a replacement dwelling. If a displaced 180 day owner-occupant elects to rent versus buy a replacement, that occupant shall be eligible for a one-time payment of **\$5,000.00**. If an eligible 180-day owner occupant initially elects to rent, but subsequently purchases a replacement dwelling within the time limits prescribed in Part 3 (A)(2)(a)(2) above, the 180-day owner occupant shall be eligible for the balance due, if any, between the one time rent payment and the actual price differential to purchase a replacement dwelling not to exceed \$20,000.00; and, eligible incidental expenses as defined in Part 3 (A)(2)(c).

### **3. Replacement housing payment for 90-day tenant occupants/less than 180 day homeowner occupants**

(a) Eligibility. A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed **\$5,000.00** for rental assistance, if such displaced person:

- (1) Has actually and lawfully occupied the acquired dwelling for at least 90 days immediately prior to the initiation of negotiations; and
- (2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the City extends this period for good cause) after:
  - (i) For a tenant, the date he or she moves from the acquired dwelling; or
  - (ii) For an owner-occupant, the later of:
    - (A) The date he or she receives final payment for the acquired dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or
    - (B) The date he or she moves from the acquired dwelling.

(b) Rental assistance payment — (1) Amount of payment. An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed **\$5,000** for rental assistance.

(2) Multiple occupants within the same dwelling. When multiple, non -related occupants or roommates occupy the same dwelling, the **\$5,000.00** payment shall be

divided between those persons in legal occupancy and named on the lease of the dwelling. Said payment shall be administered based upon their proportionate shares of the rent, or as otherwise mutually agreed upon and directed by the legal occupants in writing. In no instance shall payment or partial payment be made to person or persons not actually displaced.

(c) Approval. All relocation payments shall be subject to the City's formal review and approval.

**4. Mobile Homes - Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.**

(a) General. The following describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with Section A.1 of this part. Persons displaced from a mobile home shall be eligible for residential move expenses as described in Part 3 (A) (1), plus the following additions:

(1) In the instance of the move of the mobile home, the reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility "hookup" charges.

(2) The reasonable cost of repairs and/or modifications so that a mobile home can be moved.

(3) The cost of a nonrefundable mobile home park entrance fee, if the City determines that payment of the fee is necessary to effect relocation.

If the City determines that the costs associated with the relocation of a mobile home exceed the real property value of that mobile home, the City at its sole discretion may elect to acquire the mobile home and forego the costs to relocate said mobile home.

(b) Eligibility. An owner-occupant displaced from a mobile home and site is entitled to a replacement housing payment, if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the City's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home

(2) The person meets the other basic eligibility requirements; and

(3) The City acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the City determines that the mobile home:

- (i) Is not, and cannot economically be made decent, safe, and sanitary;
- (ii) Cannot be relocated without substantial damage or unreasonable cost;
- (iii) Cannot be relocated because there is no available comparable replacement site;  
or
- (iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(c) Amount of payment. The replacement housing payment for an eligible 180-day mobile home-occupant shall up to **\$10,000.00**, in addition to the purchase price paid by the City for the acquired mobile home, to acquire another dwelling. This payment shall equal the lesser of **\$10,000.00**, or the actual difference in the price of the acquired mobile home and the replacement dwelling. This payment shall equal a minimum of **\$5,000** regardless of the costs of the replacement.

(d) Owner-occupant not displaced from the mobile home. If the City determines that a mobile home is personal property and may be relocated to a comparable replacement site, the displaced 180-day owner-occupant is entitled to a site rental assistance payment of **\$5,000**. This rental assistance payment may be used to lease a replacement site; or, may be applied to the purchase price of a replacement site. This payment shall be made in lieu of the payment described in Part (4) (b) above, for mobile homes actually purchased by the City for the Project. The owner in this instance is eligible for moving costs described at Part 3 (A) (1) and Part 3 (A) (4) (a).

(e) Approval. All relocation payments shall be subject to the City's formal review and approval.

## **5. Mobile Homes - Replacement housing payment for 90-day mobile home occupants.**

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, of **\$5,000.00**, if:

- (a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;
- (b) The person meets the other basic eligibility requirements; and
- (c) The City acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the City but the City determines that the occupant is displaced from the mobile home at the discretion of the City.
- (d) All relocation payments shall be subject to the City's formal review and approval.

## **6. Additional rules governing replacement housing payments.**

(a) Legal residency required. Aliens not lawfully present in the United States are not eligible to receive relocation payments or advisory services.

(b) Occupancy requirements. No persons shall be deemed displaced or eligible for relocation assistance or payments if they were not in lawful occupancy, as either owner or tenant, prior to the date of adoption of this City Policy.

(c) Purchase of replacement dwelling. A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

- (1) Purchases a dwelling;
- (2) Purchases and rehabilitates a substandard dwelling;
- (3) Relocates a dwelling which he or she owns or purchases;
- (4) Constructs a dwelling on a site he or she owns or purchases;
- (5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or
- (6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(d) Occupancy requirements for displacement or replacement dwelling. No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

- (1) A disaster, an emergency, or an imminent threat to the public health or welfare,
- (2) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by the City.

(e) Payment after death. A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

- (1) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.
- (2) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

## **B. BUSINESS AND NON-PROFIT DISPLACEMENTS (NON RESIDENTIAL)**

**1. Moving and related expenses** - Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods:

(a) Commercial move. Based on the lower of two bids or estimates prepared by a commercial mover. At the City's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(b) Self-move. A self-move payment may be based on one or a combination of the following:

(1) The lower of two bids or estimates prepared by a commercial mover or qualified City staff. If the owner is qualified, it may provide a bid to move said property in addition to a commercial or third party mover. At the City's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(2) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

(c) Eligible actual moving expenses. (1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the City determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

(4) Storage of the personal property for a period not to exceed 12 months.

(5) Insurance for the replacement value of the property in connection with the move and necessary storage.

(6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(7) Other moving-related expenses that are not listed as ineligible under Part 3 (B) (6), as the City determines to be reasonable and necessary.

(8) Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

(9) Professional services as the City determines to be actual, reasonable and necessary for:

- (i) Planning the move of the personal property;
- (ii) Moving the personal property; and
- (iii) Installing the relocated personal property at the replacement location.

(13) Relettering signs and replacing stationery on hand at the time of displacement that is made obsolete as a result of the move.

(14) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

- (i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the City determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or
- (ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site.

(15) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(16) *Purchase of substitute personal property.* If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

- (i) The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or
- (ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the City's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed **\$2,500**, as the City determines to be reasonable, which are incurred in searching for a replacement location, including:

- (i) Transportation;
- (ii) Meals and lodging away from home;
- (iii) Time spent searching, based on reasonable salary or earnings;
- (iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;
- (v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

(18) *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the City, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the City.

(d) Approval of Payment. All relocation payments shall be subject to the City's formal review and approval.

## **2. Reestablishment expenses—nonresidential moves.**

In addition to the move payment identified in 4. B. 1, a small business, farm or nonprofit organization is entitled to receive a payment, not to exceed **\$10,000**, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the City. They include, but are not limited to, the following:

- (1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.
- (2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
- (3) Construction and installation costs for exterior signing to advertise the business.
- (4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- (5) Advertisement of replacement location.
- (6) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:
  - (i) Lease or rental charges;
  - (ii) Personal or real property taxes;
  - (iii) Insurance premiums; and
  - (iv) Utility charges, excluding impact fees.
- (7) Other items that the City considers essential to the reestablishment of the business.

(b) Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

- (1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

- (2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.
- (3) Interest on money borrowed to make the move or purchase the replacement property.
- (4) Payment to a part-time business in the home which does not contribute materially (defined at §24.2(a) (7)) to the household income.

### **3. Fixed payment for moving expenses—nonresidential moves.**

(a) *Business.* A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses. Such fixed payment, except for payment to a nonprofit organization, shall equal **\$20,000.00**. The displaced business is eligible for the payment if the City determines that:

- (1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site;
- (2) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the City, and which are under the same ownership and engaged in the same or similar business activities.
- (3) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;
- (4) The business is not operated at the displacement site solely for the purpose of renting the site to others; and
- (5) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement.

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

- (1) The same premises and equipment are shared;
- (2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
- (3) The entities are held out to the public, and to those customarily dealing with them, as one business; and
- (4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* A displaced farm operation may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in the amount of **\$20,000.00**. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the City determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* A displaced nonprofit organization may choose a fixed payment of **\$20,000.00**, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the City determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the City demonstrates otherwise.

#### **4. Personal property only**

Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described Part 3 (B) (1) (a) through (c)(16).

#### **5. Advertising signs.**

The amount of a payment for direct loss of an advertising sign, which is personal property, shall be the lesser of:

(a) The depreciated reproduction cost of the sign, as determined by the City, less the proceeds from its sale; or

(b) The estimated cost of moving the sign, but with no allowance for storage.

**6. Ineligible moving and related expenses.** A displaced person or displaced business is not entitled to payment for:

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership.

(b) Interest on a loan to cover moving expenses;

(c) Loss of goodwill;

(d) Loss of profits;

(e) Loss of trained employees;

(f) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in Section B. 2. (a) (6).

(g) Personal injury;

(h) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the City;

(i) Expenses for searching for a replacement dwelling;

(j) Physical changes to the real property at the replacement location of a business or farm operation except as provided in Section B. 2.

(k) Costs for storage of personal property on real property already owned or leased by the displaced person, and

(l) Refundable security and utility deposits.

Having duly considered this policy and for the reasons set forth herein and otherwise by law, the foregoing Confluence Drive Relocation Assistance Policy is hereby adopted, to be effective immediately. Done this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

## APPENDIX A

### Residential Fixed Moving Schedule

Occupant Owns Furniture									Occupant does not own furniture	
Number of Rooms of Furniture										
1 room	2 rooms	3 rooms	4 rooms	5 rooms	6 rooms	7 rooms	8 rooms		Addt'l room	1 room/ no furn.
500	700	900	1050	1200	1350	1500	1650	150	300	50

## APPENDIX B

**Definitions.** Unless otherwise noted, the following terms used in this part shall be understood as defined in this section:

**(1) *Alien not lawfully present in the United States.*** The phrase “alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

- (i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.* ) and whose stay in the United States has not been authorized by the United States Attorney General; and,
- (ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

**(2) *Appraisal.*** The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

**(3) *Business.*** The term *business* means any lawful activity, except a farm operation, that is conducted:

- (i) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;
- (ii) Primarily for the sale of services to the public;
- (iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- (iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

**(4) *Citizen.*** The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

**(5) *Contribute materially.*** The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

- (i) Had average annual gross receipts of at least \$5,000; or
- (ii) Had average annual net earnings of at least \$1,000; or

(iii) Contributed at least 33 1/3 percent of the owner's or operator's average annual gross income from all sources.

(iv) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

**(6) Displaced person.** (i) *General.* The term *displaced person* means, except as provided in paragraph (a) (9) (ii) of this section, any person who moves from the real property or moves his or her personal property from the real property;

(A) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

(B) As a direct result of rehabilitation or demolition for a project; or

**(7) Dwelling.** The term *dwelling* means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

**(8) Dwelling site.** The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (

**(9) Farm operation.** The term *farm operation* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

**(10) Initiation of negotiations.** The term *initiation of negotiations* means the following:

(i) The earlier of:

(a) Delivery of the initial written offer of just compensation by the City to the owner or the owner's representative to purchase the real property for the Project; or,

(b) The date the City issues a notice of its intent to acquire the real property.

**(11) Mobile home.** The term *mobile home* includes manufactured homes and recreational vehicles used as residences.

**(12) Mortgage.** The term *mortgage* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

**(13) Nonprofit organization.** The term *nonprofit organization* means an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and

exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

**(14) Owner of a dwelling.** The term *owner of a dwelling* means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

- (i) Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
- (ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or
- (iii) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

**(15) Person.** The term *person* means any individual, family, partnership, corporation, or association.

**(16) Persons not displaced.** The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

- (A) A person who moves before the initiation of negotiations unless the City determines that the person was displaced as a direct result of the program or project;
- (B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;
- (C) A person who has occupied the property for the purpose of obtaining assistance under City policy;
- (D) A person who is not required to relocate permanently as a direct result of a project.
- (E) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;
- (F) A person who, after receiving a notice of relocation eligibility is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the City agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;
- (G) An owner-occupant who conveys his or her property after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property;
- (H) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(I) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law;

(J) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance.

**(17) Salvage value.** The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense. This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

**(18) Tenant.** The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

**(19) Unlawful occupant.** A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

**(20) Utility costs.** The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.